SUPREME COURT, U. S.

FILED

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IN THE

Supreme Court of the United States

OCTOBER TERM 1969

No. 1010

JOHN TERREL HAMPTON,
Petitioner,
v.
UNITED STATES OF AMERICA,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES

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WO. 2-4745—WO. 2-8732

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PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES

Petitioner prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Sixth Circuit entered in the above-entitled cause on December 5, 1968.

OPINION BELOW

The order entered by the District Court for the Eastern District of Michigan, Southern Division, on the 4th day of April, 1967, is printed in Appendix A, *infra* pages 11 and 12. The opinion of the Court of Appeals for the Sixth Circuit entered on December 5, 1968 is reported at page 13.

JURISDICTION

The judgment of the United States Court of Appeals for the Sixth Circuit was entered on December 5th, 1968, and a copy of the Order is printed in the Appendix B at page 13 . The jurisdiction of the court is invoked under Title 28 U.S.C. Sec. 254, paragraph (1), providing for the granting of a writ of certiorari upon the petition of any party after rendition of judgment by the Court of Appeals.

QUESTIONS PRESENTED

The petitioner was convicted on the uncorroborated testimony of one Quincy Lucille Robinson, a woman who by her own admission acknowledges 10 convictions for prostitution. The petitioner was convicted of violating Title 18 U.S.C. Section 2421, more commonly known as the MANN ACT.

The district court, sitting as trier of fact, completely disregarded the testimony of John Terrel Hampton, petitioner herein, and other witnesses. Further, the Court of Appeals affirmed. The questions presented are:

1. Was the evidence presented, taking into consideration the character and credibility of the witnesses, sufficient to establish petitioner's guilt beyond a reasonable doubt when it is inconsistent with the corroborated testimony of the petitioner and others?
2. Does Quincy Lucille Robinson, a known and frequently convicted prostitute fall within the purpose of the legislative intent of congress with regards to the MANN ACT? Is Quincy Lucille Robinson the kind of woman the act was meant to protect?
3. Did the judge sitting as the trier of fact abuse his judicial discretion by seemingly disregarding the testimony of witnesses?

CONSTITUTIONAL PROVISIONS INVOLVED

The constitutional provisions which are relevant to decision of this case, the text of which is set forth in Appendix C hereto are Amendment V of the United States Constitution and Amendment VI of the United States Constitution.

STATEMENT OF FACTS

On an undetermined date early in the month of September, 1963, Quincy Lucille Robinson obtained information regarding the possibility of prostituting herself in Terre Haute, Indiana (page 12). Quincy Lucille Robinson admits on Cross-Examination that John Terrel Hampton was not with her when she received the information (page 32, Cross-Examination). Quincy Lucille Robinson admits to being a prostitute at the time she obtained said informa-

tion (page 8) and further admits being a prostitute for 15 years starting in either 1952 or 1953 and many years prior to her meeting the defendant (pages 6 and 7). Quincy Lucille Robinson admits making arrangements and leaving for Terre Haute, Indiana (page 15). Quincy Lucille Robinson stating John Terrel Hampton drove her to the Greyhound Bus Terminal with John Terrel Hampton purchasing her ticket and Petitioner states he drove her to the Bus Depot but she purchased her own ticket. Thereafter, Quincy Lucille Robinson left the State of Michigan and went to Terre Haute, Indiana and prostituted for 6 weeks (page 20), after which she returned and for a short time lived with Petitioner. Some time before the end of the year the relationship dissipated and Quincy Lucille Robinson moved.

A complaint was issued against John Terrell Hampton on September 30, 1964 by F.B.I. which stated:

> That on or about September 3, 1963 in the Eastern District of Michigan JOHN TERREL HAMPTON did knowingly persuade, induce and entice a woman, that is QUINCY LUCILLE ROBINSON, to go from *DETROIT,* State of Michigan, to *TERRE HAUTE,* State of Indiana, for the purpose of prostitution and debauchery and for other immoral purposes and with the intent and purpose on the part of JOHN TERREL HAMPTON that QUINCY LUCILLE ROBINSON should engage in the practice of prositution and debauchery and other immoral practice, and JOHN TERREL HAMPTON did thereby knowingly cause QUINCY LUCILLE ROBINSON to go and be carried and transported as a passenger upon the line and route of the *Greyhound Bus Lines,* a common carrier in interstate commerce; and the complainant states that this complaint is based on statements of QUINCY LUCILLE ROBINSON and an investigation conducted by agents of the Federal Bureau of Investigation.

Trial was held on Tuesday, April 4, 1967 before Honorable Thomas P. Thornton, District Judge for the Southern Division in the United States District Court for the Eastern District of Michigan without a jury. Judge Thornton found petitioner guilty as charged in the indictment. On June 1, 1967 petitioner was sentenced to be imprisoned for three years. Appeal was filed with the United States Court of Appeals for the 6th Circuit and on December 5, 1968 an Order was filed affirming the judgment of the District Court. Therefore, a Motion was filed to Stay the Issuance of Mandate pending this appeal and on January 3, 1969 said motion was granted and order entering Staying Issuance of Mandate until February 2, 1969. Whereupon, petitioner by his attorney Albert A. Goldfarb, Motioned the Supreme Court of the United States to extend time to file petition for Writ of Certiorari, said Motion being granted and time extended to February 3, 1969.

REASONS FOR GRANTING WRIT

The district court, sitting as trier of fact, found John Terrel Hampton guilty of knowingly persuading, inducing and enticing one Quincy Lucille Robinson to engage in prostitution across a state line, to wit: from Michigan to Indiana. The arguments against such a finding of guilt are two-fold. First, that the facts and evidence presented at the trial do not warrant such a finding and second, that Quincy Lucille Robinson, by her own admissions, was not of the nature and character of person that the "White Slavery Act" was intended to protect and thereby it was not applicable and as a result not violated.

With regards to the facts and evidence presented I respectfully bring to this court's attention that Quincy Lucille Robinson charged her former lover John Terrel Hampton

with sending her to Terre Haute, Indiana for the purpose of prostitution. The testimony at the trial, however, by Quincy Lucille Robinson should leave doubt as to the truth of her complaint wherein she states: first, that she herself obtained the information from a friend about business opportunities in Terre Haute, Indiana (page 12), this should have indicated an intention on the part of Quincy Lucille Robinson to go to Terre Haute prior to any conversation with John Terrel Hampton, the intent thereby originating with her; second this is substantiated by Quincy Lucille Robinson admitting that John Terrel Hampton was not with her when she received this information (page 32, Cross-Examination); third, she admits to being a prostitute at the time (page 8) and further, that she had actively been engaged in her profession since 1952 or 1953 and the length of time totaling 15 years, which would bring her up to approximately 1967; fourth, she admits making arrangements and leaving for Terre Haute, Indiana (page 15); fifth, Quincy Lucille Robinson admits making "business arrangements" with a woman named "Audrey" in Terre Haute, Indiana (page 21); sixth, she indicates she left because ". . . the police were hot . . ." in Detroit (page 36 Cross-Examination). If that was not enough to cast doubt on the allegations of the complaint then there was the testimony of one Audrey Dorsey, the madam of the house of prostitution in Terre Haute, Indiana who stated that she only saw or spoke to John Terrel Hampton on one occasion and that was in Terre Haute, Indiana after Quincy Lucille Robinson had already been there and working (page 7 and 8). All that is indicated herein should have created in the mind of the trier of fact sufficient doubt as to not warrant a conviction in this matter.

The purpose of the "White Slavery Act" or the Mann Act as it is also called, is two-fold. First to keep prostitu-

tion out of interstate commerce and second, to protect women. It is Petitioner's contention that this act does not apply to the facts of this case. That this was also an abuse of discretion on the part of the trier of fact. The purpose of calling witnesses is to determine the facts and if said trier of fact disregards the testimony of witnesses then the purpose of calling them is defeated. The facts brought to the attention of the court in this case, by three witnesses, Quincy Lucille Robinson, John Terrel Hampton and Audrey Dorsey were that Quincy Lucille Robinson had been a prostitute in the past, was one at the time she left for Terre Haute, Indiana and that she remained the same thereafter, that the reason she left Detroit, Michigan was not at the insistence or direction of John Terrel Hampton but because ". . . the police were hot . . ."

The "White Slavery Act" was passed to prevent ". . . the sale of young and innocent girls for immoral purposes . . ." *Comonetti v. United States,* 242 United States 470, at page 495, 37 S Ct 192, 61 L Ed 442.

Looking further we find in *Wyatt v. United States,* 362 United States 525 (1960).

> "The primary purpose of the Mann Act was to protect women who were weak from men who were bad." *Denning v. United States,* 247 F. 463 at 465.

It does not say "women who were bad from men" which is more fitting in the case at hand!

Further, in Wyatt at page 530 it states:

> ". . . As the legislature history discloses, the act reflects the supposition that the women with whom it sought to deal often had no independent will of their own, and embodies, in effect, the view that they must be protected against themselves . . .

This certainly cannot be made to apply to Quincy Lucille Robinson.

In the Dissent at page 535 by Justice Warren it states:

> ". . . It is true of course that the Federal Court has the authority to interpret the common-law principles of evidence 'in the light of reason and experience.'"

But it should be added: not in utter disregard of the facts, the testimony, the character of the witnesses and the circumstances. The judicial process precludes a justice from not weighing the testimony of all parties. It seems impossible that a judge could give so much weight to Quincy Lucille Robinson's testimony in the light of her admitted activities in the area of prostitution and have so little regard for the testimony of John Terrel Hampton and Audrey Dorsey that the legal requirement of the criminal law of proof of guilt "beyond a reasonable doubt" was satisfied!

Where intent is made an element of crime the prosecution has the burden of proving the state of mind of the accused, *Commonwealth v. Carter,* 306 Mass, 141, 27 NE 2d; *People v. Jones,* 293 Mich 409, 292 NW 350,—that is of proving that the act was done with the requisite specific intention, *Simpson v. State,* 81 Fla. 292, 87 So 920. In a prosecution under a statute using the word "knowingly" it has been held incumbent upon the prosecution to prove that the accused had knowledge of facts sufficient to render the act or omission of a crime, but not that the accused knew that the act or omission itself was unlawful, *People v. Shapiro,* 4 NY 2d, 597, 176 NYS 2d 632, 152 NE 2d 65, 69 ALR 2d 973. John Terrel Hampton most likely knew what Quincy Lucille Robinson was going to do in Terre Haute, Indiana but that doesn't make him part of the crime.

Moreover, where all evidence offered should be relevant to some issue in the case and have a material bearing upon it, the court should not exclude the evidence on the ground of its weakness, *Baker v. State,* 86 Neb. 775, 126 NW 300, or because of the possibility of its being false, *Scott v. O'Brien,* 129 Ky. 1, 110 SW 260, and a serious doubt as to the admissibility of evidence in a criminal matter should be resolved in favor of the accused, *Gambrell v. State,* 92 Miss. 728, 46 So. 138, 17 LRA (NS) 291, Am. St. Rep 549, 16 Ann Cas 147. The trial court erred in disregarding the testimony of the defendant, John Terrel Hampton, Audrey Dorey and Paul Chaiken.

In conclusion, I wish to submit that the number in Terre Haute, Indiana was given to Quincy Lucille Robinson and not to John Terrel Hampton. Quincy Lucille Robinson was leaving Detroit! John Terrel Hampton did not put the crime in motion, he did not go out and look for a place for her to prostitute, she did that by her own admission (page 32 transcript). Petitioner drove her to the bus station. As to the question of whether or not he bought her the ticket? Whether or not he purchased the ticket, does not itself establish intent. If a man sent a wife or girlfriend out of town for a vacation and she prostitutes, surely the man can not be held responsible unless it is proven beyond a reasonable doubt that he intended her to prostitute. In the case before this court we have a known prostitute with numerous convictions and arrests, we have a boyfriend-girlfriend relationship that terminated and quite obviously with bad feelings. It seems hard to believe that a judge sitting as trier of fact could completely disregard the testimony of the defendant and of Audrey Dorsey and give full unequivocal credence to the testimony of Quincy Lucille Robinson, prostitute. The presumption of law that requires proof of guilt beyond a reasonable doubt surely could not have been satisfied by her testimony alone!

CONCLUSION

For the foregoing reasons, it is respectfully submitted that Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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Dated: February 1, 1969.

APPENDIX A

Trial and Findings

At a session of said Court held in the Federal Building, in the City of Detroit, Michigan on the 4th day of April, 1967.

Present: Honorable Thomas P. Thornton, United States District Judge.

This matter having come on for trial without a jury, the government being represented by Robert J. Grace, and the defendant being present in Court and represented by Clayton L. Davis, Jr.,and having heard the proofs and testimony of witnesses and the arguments of counsel, and being duly advised in the premises, the Court finds the defendant John Terrel Hampton, guilty as charged in the Indictment.

The defendant is referred to the Probation Department for investigation and report, and his appearance bond is continued in full force and effect.

Thomas P. Thornton
United States District Judge

Judgment and Commitment

On the 1st day of June, 1967, came the attorney for the government and the defendant appeared in person and by counsel, Clayton L. Davis, Jr.

It is adjudged that the defendant has been convicted upon his plea of not guilty and finding of guilty of the offense of interstate transportation of female for the purpose of prostitution; in violation of Section 2421, Title 18, U.S.C., as charged in the Indictment; and the Court having asked the defendant whether he has anything to say why judgment should not be pronounced and no sufficient cause to the contrary being shown or appearing to the Court.

It is adjudged that the defendant is guilty as charged and convicted.

It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of three (3) years.

The defendant's appearance bond hereby cancelled.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ Thomas P. Thornton
United States District Judge

Frederick W. Johnson,
Clerk

APPENDIX B

No. 18,530

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

United States of America,
Plaintiff-Appellee,
v.
John Terrel Hampton,
Defendant-Appellant.

Order

(Filed December 5, 1968)

Before: O'Sullivan, Peck and Combs, Circuit Judges.

On consideration of the appeal the Court finds that there is substantial evidence to support the judgment of conviction of the District Court sitting without a jury, and that no prejudicial error has intervened. Accordingly,

IT IS ORDERED that the judgment of the District Court be and it hereby is affirmed.

Entered by Order of the Court

Carl W. Reuss
Clerk

APPENDIX C

United States Constitution—Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

United States Constitution—Amendment VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him, to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defense.

In the Supreme Court of the United States

OCTOBER TERM, 1968

No. 1010

JOHN TERREL HAMPTON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The opinion of the court of appeals is not yet reported.

JURISDICTION

The judgment of the court of appeals was entered on December 5, 1968. Mr. Justice Stewart extended the time for filing a petition for a writ of certiorari to February 3, 1969, and the petition was filed on that

day. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support the verdict.

2. Whether the purchasing of a ticket for interstate transportion of an acknowledged prostitute constitutes a violation of 18 U.S.C. 2421.

STATEMENT

After a non-jury trial in the United States District Court for the Eastern District of Michigan, petitioner was convicted on a one count indictment which charged the procuring of a bus ticket to be used by a woman to travel in interstate commerce for purposes of prostitution (18 U.S.C. 2421). On June 1, 1967, he was sentenced to three years' imprisonment. The court of appeals affirmed.

During 1963, petitioner lived in Detroit, Michigan with a Mrs. Quincy L. Robinson, a prostitute, for whom he was a pimp. In September, when the Detroit Police were getting "hot" (R. 36),[1] Mrs. Robin-

[1] The record on file with the Clerk of this Court, designated herein as "R." contains only the testimony of Mrs. Robinson and petitioner. Since the clerk of the trial court sought agreement from counsel as to which portions of the records required reproduction it is believed that such abbreviation is with the consent of all parties. Petitioner makes mention, however, of the testimony of Audrey Dorsey and Paul Chaiken (Pet. 7, 9). Audrey Dorsey, the madam of the Terre Haute brothel, appeared as a witness but her testimony was not transcribed (R. 41). Paul Chaiken was petitioner's em-

son informed petitioner that there was prospective work for her in Terre Haute, Indiana and furnished him with a Terre Haute telephone number. He called Terre Haute, gave the respondent Mrs. Robinson's physical description and his assurances that Mrs. Robinson would soon arrive. Petitioner then accompanied her to the Detroit bus station and purchased her ticket for Terre Haute (R. 6-16).

In Terre Haute Mrs. Robinson worked as a prostitute for a six week period. Petitioner visited her twice and received some of her money each time. She also wired him some funds through Western Union. After the police in Terre Haute also became "hot", petitioner wired Mrs. Robinson money for an airflight back to Detroit. When he met her at the Detroit airport, she gave him the $1,000 residue of the approximately $3,000 she had earned in Terre Haute (R. 19-26).

Petitioner testified that he had lived with Mrs. Robinson and knew she was a prostitute, but that it was she who made the call to Terre Haute and that he did not purchase her ticket. He visited her twice while she worked in Terre Haute, and later sent her money to come back to Detroit. They resumed their cohabitation when she returned (R. 44-61).

ARGUMENT

1. Petitioner argues that the evidence is insufficient because the proof that he purchased the ticket for

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ployer at sometime after 1963. During 1963 petitioner claimed to be self-employed while Mrs. Robinson testified he was unemployed (R. 8, 43-45).

Mrs. Robinson in order to have her go to Indiana to act as a prostitute depends on her uncorroborated testimony. The trial court sitting without a jury, was in the best position to judge the candor and credibility of the witnesses. Mrs. Robinson's testimony, if believed by the trial court, was sufficient to convict. *Caminetti* v. *United States*, 242 U.S. 470, 495; *Singleton* v. *United States*, 381 F.2d 1 (C.A. 9), certiorari denied, 389 U.S. 1024; *United States* v. *Terry*, 362 F.2d 914, 916 (C.A. 6), certiorari denied, 385 U.S. 1029.

2. The Mann Act applies to the furnishing of transportation to known prostitutes for the purpose of having them travel to another state to ply their trade. See *Bell* v. *United States*, 349 U.S. 81, 84; *Forrest* v. *United States*, 363 F.2d 348 (C.A. 5).

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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MARCH 1969.

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